

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA

v.

DOUGLAS DURAN CERRITOS

Case No. 1:14-cr-00306-GBL-7

**DEFENDANT'S REPLY TO
GOVERNMENT'S RESPONSE TO
DEFENDANT'S NOTICE OF
FILING**

COMES NOW, Douglas Duran Cerritos, through counsel, Dwight E. Crawley and Joseph R. Conte, hereby files this reply to the government's response to defendant's notice of filing. (Dkt. #821).

1. F.R.Cr.P. 16(a)(1)(E)(I) provides that the government must produce any item that "is material to preparing the defense." The government produces FBI 302 reports as a matter of routine in every criminal case. These materials are vital in preparing a defense. The documents identify witnesses and other information necessary for a defense. In many cases the witnesses allege associations with the defendant. In those instances it is impossible to determine the truthfulness of the statement unless the identity of the witness is disclosed. Once disclosed the identity of the witness often leads to the identity of other witnesses helpful to the defense.

2. The government should not be the final arbiter of what information is "material to preparing the defense." The government does not view the evidence through the sight of a defense counsel and therefor is not in the position to say what

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1 is or is not material to the defense.

2 3. Rule 16(d) affords the government the protection it requires
3 through the use of a protective order. The government has not sought the
4 protection of Rule 16(d) but instead has taken the opposite approach by redacting
5 the 302s and placing the onus on the defendants to identify material documents. If
6 the government seeks to redact a document then the government should identify to
7 the court the document(s) it seeks to withhold or redact for a ruling as the rule
8 requires.

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11 Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the forgoing was served by the court's Case Management/Electronic Case Filing (CM/ECF) system this 4th day of April 2016.

/s/ Joseph R. Conte
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